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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re) Case No. 11-20672-E-13
TRE HOLDINGS, LLC,)
Debtor(s).)

This memorandum decision is not approved for publication and may not be cited except when relevant under the doctrine of law of the case or the rules of claim preclusion or issue preclusion.

MEMORANDUM OPINION AND DECISION

Order to Show Cause - Tremaine Fowlkes, Dkt. #51

The hearing on the Order to Show Cause issued by the court on April 29, 2011 (the hearing having been continued at the request of the parties in interest), concerning the conduct of Tremaine Fowlkes in the commencement of this Chapter 13 case was conducted on August 2, 2011. Mr. Fowlkes appeared at the hearing. Walter J. Sawicki, the attorney of record for the Debtor for the appeal pending before the District Court and the order to show cause filed against Tremaine Fowlkes, has filed notices with this court that he has withdrawn for such representation. No response to the Order to Show Cause was filed by Tremaine Fowlkes or any attorney purporting to represent him.

The Order to Show Cause was issued to allow Mr. Fowlkes to

1 address how TRE Holdings, LLC commenced a bankruptcy case in the
2 Eastern District of California when it is registered with the
3 California Secretary of State as having its location at
4 1880 Century Park East Ste 420, Los Angeles, California. The
5 Petition lists TRE Holdings, LLC as having an address on McKay
6 Street in Fair Oaks, California. Mr. Fowlkes executed the petition
7 stating that this information is true and correct under penalty of
8 perjury.

9 Mr. Fowlkes appeared at the hearing and orally represented
10 that the address is his residence and that is now where TRE
11 Holdings, LLC maintains its business. No evidence of TRE Holdings,
12 LLC doing business at that address was provided, such as
13 letterhead, utility bills, correspondence, licenses, or other
14 indices of where this business was located. No information was
15 provided as to how long Mr. Fowlkes had an interest in TRE
16 Holdings, LLC.

17 After consideration of the evidence, the court concludes that
18 this bankruptcy case was not only improperly filed in the Eastern
19 District of California, but was done so deliberately. The attorney
20 hired to represent TRE Holdings, LLC, Craig Cawlfeld, is located
21 in Los Angeles, California. No credible explanation was provided
22 as to why a Sacramento area limited liability company would be
23 hiring counsel in Los Angeles, California, to file a Chapter 13
24 case in the Eastern District of California. The other attorney who
25 has been involved in the representation of TRE Holdings, LLC,
26 Walter J. Sawicki, is also located in Los Angeles, California.

27 After commencing the bankruptcy case on January 10, 2011, by
28 the filing of the bankruptcy petition, Mr. Fowlkes and TRE

1 Holdings, LLC's counsel did not file any other documents. The
2 unfiled documents include: Attorney's Disclosure Statement,
3 Chapter 13 Plan, Schedule A, Schedule B, Schedule C, Schedule D,
4 Schedule E, Schedule F, Schedule G, Schedule H, Schedule I,
5 Schedule J, Statement of Financial Affairs, Statistical Summary,
6 and Summary of Schedules. The failure of Mr. Fowlkes and counsel
7 to file these basic pleadings have left the court without evidence
8 to determine that the statements of Mr. Fowlkes and counsel are
9 credible and that any basis exists for this case being filed in the
10 Eastern District of California.

11 There has been no evidence presented to the court to provide
12 any ties of TRE Holdings, LLC to the Eastern District of
13 California. The statements, which were not under penalty of
14 perjury, by Mr. Fowlkes that the LLC is now based out of his house
15 in Fair Oaks, California, are found to the court not to be
16 credible.

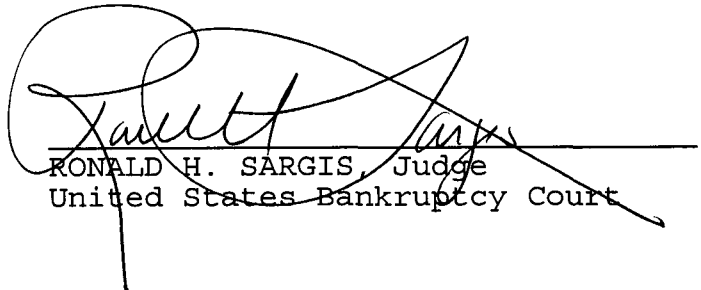
17 The court finds that Tremaine Fowlkes, with the assistance of
18 counsel, intentionally filed the bankruptcy case for TRE Holdings
19 in the Eastern District of California. The court will not
20 speculate as to what tactical or strategic advantage that
21 Mr. Fowlkes, TRE Holdings, LLC, and counsel sought to obtain by
22 intentionally filing in the improper district.

23 This is not the first time that TRE Holdings, LLC and
24 Mr. Fowlkes have appeared in the Eastern District of California.
25 In *TRE Holdings, LLC and Tremaine Fowlkes v. Oberg et al*, 05-2335,
26 TRE Holdings asserted in the complaint that its principal place of
27 business was Los Angeles, California. In the same complaint,
28 Tremaine Fowlkes asserted that he was an individual who resided in

1 Los Angeles, California. Case No. 05-2335, Dckt. 1. TRE Holdings,
2 LLC and Mr. Fowlkes counsel in that adversary proceeding was also
3 located in Los Angeles, California.

4 Other than this one prior adversary proceeding, the court does
5 not identify any repeated attempts to access the court or pattern
6 of abusive conduct. Therefore, the court determines that no
7 monetary sanctions pursuant to Fed. R. Bankr. P. 9011 are necessary
8 to induce corrective conduct by Mr. Fowlkes. However, given his
9 conduct in this case, it is appropriate for the court to order
10 Mr. Fowlkes to provide a copy of this order to the clerk of the
11 bankruptcy court, bankruptcy and district court judge, U.S.
12 Trustee, and bankruptcy trustee for any bankruptcy cases commenced
13 by Mr. Fowlkes for himself or any bankruptcy cases in which
14 Mr. Fowlkes is a shareholder, member, general partner, or limited
15 partner of the entity filing bankruptcy on or before January 1,
16 2013.

17 Dated: September 6, 2011

18 
19 RONALD H. SARGIS, Judge
20 United States Bankruptcy Court
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CERTIFICATE OF MAILING

The undersigned deputy clerk in the office of the United States Bankruptcy Court for the Eastern District of California hereby certifies that the attached document(s) was served by mail to the following entities listed at the address(es) shown below:

Service List:

Craig Cawlfeld
11301 Olympic Blvd #519
Los Angeles, CA 90064

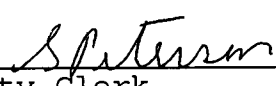
Walter Sawicki
2430 Ocean View Ave #305
Los Angeles, CA 90057

Tremaine Fowlkes
TRE Holdings, LLC
5541 McKay St
Fair Oaks, CA 95628

David Cusick
PO Box 1858
Sacramento, CA 95812-1858

Office of the U.S. Trustee
Robert T Matsui United States Courthouse
501 I Street, Room 7-500
Sacramento, CA 95814

DATE: 9/8/11


Deputy Clerk